

(2002) 08 AP CK 0050
Andhra Pradesh High Court
Case No: AAO No. 556 of 2000

District Co-operative Central
Bank Limited

APPELLANT

Vs

P.V. Sitamahalaxmi and Others

RESPONDENT

Date of Decision: Aug. 28, 2002

Acts Referred:

- Motor Vehicles Act, 1988 - Section 147

Citation: (2003) 2 ACC 524 : (2004) ACJ 1332 : (2002) 6 ALD 456

Hon'ble Judges: Ramesh Madhav Bapat, J; M. Narayana Reddy, J

Bench: Division Bench

Advocate: Vasudeya Reddy, for the Appellant; L. Sudharami, for Respondent Nos. 1 and 2, M.V.K. Viswanatham and Bathula Venkateswar Rao, for the Respondent

Final Decision: Allowed

Judgement

Ramesh Madhav Bapat, J.

This is an appeal by District Co-operative Central Bank Limited, Mahabubnagar, represented by its General Manager Sri T. Suresh. The appellant herein was aggrieved by the award passed in OP No. 313 of 1989 by the Motor Accidents Claims Tribunal-cum-Additional District Judge, Mahabubnagar making the appellant liable to pay compensation to the respondents 1 and 2 herein. These two persons were claimants in the aforesaid OP. The original petition was filed claiming compensation on the ground that a person named P.V. Narasimaha Rao, who was working as Assistant Regional Officer in AP Cooperative Central Bank Limited was travelling in a Jeep bearing No. AHK 5180 on National Highway No. 7 from Atmakur-Mahabubnagar. The 5th respondent in the OP named Telugu Ramulu drove the Jeep. The Jeep was hired by the 3rd respondent from the 1st respondent in the OP and it was insured with the Insurance Company. On hearing all the parties, the Tribunal awarded compensation of Rs. 3,24,000/- with interest at the rate of 12% p.a., making liable the District Cooperative Central Bank Limited, to pay

compensation to the claimants.

2. Mr. N. Vasudeva Reddy the learned Counsel appearing on behalf of the appellant herein did not dispute the quantum but submitted that the District Co-operative Central Bank Limited, is not liable to pay compensation because the vehicle in question was hired by them from the owner of the vehicle named Mr. M.V. Krishnaiah Goud i.e., the 3rd respondent herein. The said vehicle was insured with the New India Assurance Company Limited. The learned Counsel further submitted that if the vehicle is hired and it met with an accident, then the person, who hired the vehicle, could not be made liable. In support of his contention, the learned Counsel relied upon a ruling of this Court in LPA Nos. 87 to 90 of 1990, which was decided by the Division Bench of this Court, held as under:

"The question involved in these appeals is whether the A.P. State Road Transport Corporation is liable to pay the compensation. It is held in more than one decision by this Court that where the APSRTC takes vehicles on hire from the owner which is insured with the Insurance Company, the APSRTC is not liable to pay the compensation. (Vide AAO No. 1028/84 dated 27-10-1988). However, the liability of the owner and the Insurance Company cannot be disputed.

It is open to the claimants-respondents to proceed against the Insurance Company and the owner of the vehicle for realisation of the amounts."

Considering the above ruling, this Court holds that the appellant cannot be made liable to pay compensation to the claimants in OP No. 313 of 1989.

3. Now the second question arises for our consideration as to who is liable to pay compensation?

4. It is not in dispute that the vehicle owner by name Mr. M.V. Krishnaiah Goud was the respondent in the OP as well as in the appeal. The said vehicle was insured with the New India Assurance Company Limited and therefore they are liable to pay compensation to the claimants. In support of his contention the learned Counsel relied upon a ruling reported in [New India Assurance Co., Shimla Vs. Kamla and Others etc. etc.](#), in which their Lordships of the Supreme Court were pleased to hold that even there is a breach, the Insurance Company is liable to pay compensation. As it is found in this case that the owner had given the vehicle on hire to the District Co-operative Central Bank Limited without paying any additional premium, the Insurance Company is not exonerated from paying the compensation. After paying compensation, the Insurance Company gets rights to recover the said amount from the owner as he has committed the breach.

5. Similar view as expressed earlier by the Hon'ble Supreme Court in a ruling reported in [Amrit Lal Sood and Another Vs. Smt. Kaushalya Devi Thapar and Others,](#)

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6. Considering the above legal position, we are of the considered view that the liability fastened on the appellant making them to pay compensation is not legally correct. They are exonerated from paying compensation. But the owner Mr. M.V. Krishnaia Goud and the New India Assurance Company Limited are made liable to pay compensation to the claimants.

7. As per the interim direction of this Court, the appellant herein had deposited an amount of Rs. 3,21,094/- in OP No. 313/89 before the Tribunal. In view of the above finding, the appellant is permitted to withdraw the same.

8. With these modifications in the award, the appeal filed by the District Cooperative Central Bank Limited is hereby allowed. No costs.